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August 24, 2017

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You are hereby notified that the Court has entered the following opinion and order:

2016AP1690-CR State of Wisconsin v. John G. Dahlk (L.C. #1993CF1604)

Before Sherman, Blanchard, and Kloppenburg, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

John Dahlk, pro se, appeals a circuit court order denying his petition to waive the costs of preparing a transcript. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21

(2015-16).¹ Because Dahlk has not made the necessary showing of an arguably meritorious claim, we affirm.

A request for waiver of transcript costs is governed by our supreme court's decision in *State ex rel. Girouard v. Circuit Court for Jackson County*, 155 Wis. 2d 148, 159, 454 N.W.2d 792 (1990). In that case, our supreme court explained that “a meritless assertion by a putative appellant will not furnish a foundation for a judicially ordered waiver of fees.” *Id.* Instead, “[t]he individual must be found to be indigent by the court, and the person must present a claim upon which relief can be granted.” *Id.* (citation omitted). Moreover, “the claim [must be] arguably meritorious.” *Id.* (alteration in original) (quoted source omitted). We informed Dahlk of this standard in our previous order dated July 1, 2016.

In its order denying Dahlk's fee waiver petition, the circuit court concluded that Dahlk had not submitted “any information whatsoever regarding what or why he is appealing” nor had he made any effort to show an arguably meritorious claim. The circuit court stated that it did not need to reach the issue of indigency in light of Dahlk's failure to demonstrate an arguably meritorious claim. However, in the interest of completeness, the court also concluded that Dahlk's submissions did not establish indigency.

In his opening brief on appeal, Dahlk focuses on the circuit court's determination regarding indigency. His argument section does not address the circuit court's main basis for denying the petition, namely, his failure to make any effort to demonstrate an arguably meritorious claim for appeal. Instead, Dahlk addresses this determination briefly at the end of

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

his statement of facts, asserting that he “clearly told the circuit court that the claim for relief was his release from prison.” Dahlk does not develop this assertion into a legal argument with citations to the record. See *Nelson v. Schreiner*, 161 Wis. 2d 798, 804, 469 N.W.2d 214 (Ct. App. 1991) (“Section 809.19(1)(d), Stats., calls for appropriate references to the record, and this court need not sift the record for facts to support [appellant’s] contentions”) (alteration in original). Nor does Dahlk point us to legal authority showing that he has an arguably meritorious claim for appeal. See *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (we may decline to review arguments lacking in legal authority and only supported by general statements).

The State argues that Dahlk has failed to carry his burden of showing that he has an arguably meritorious claim. See *Girouard*, 155 Wis. 2d at 159. By letter, Dahlk informs us that he is declining to file a reply brief, characterizing the State’s argument as “utterly ridiculous since I have repeatedly stated that my claim is my freedom.” Dahlk’s conclusory assertions fall far short of demonstrating that he has an arguably meritorious claim for appeal. See *State ex rel. Harris v. Smith*, 220 Wis. 2d 158, 164-65, 582 N.W.2d 131 (Ct. App. 1998) (“Our obligation to liberally construe a pro se litigant’s pleading assumes that the litigant has otherwise made a proper argument for relief ... [and] does not extend to creating an issue and making an argument for the litigant.”).

We therefore affirm the circuit court’s order on the ground that Dahlk has not demonstrated that he has an arguably meritorious claim. See *Girouard*, 155 Wis. 2d at 159. Because this is fatal to Dahlk’s petition, we need not address the circuit court’s determination that Dahlk is not indigent.

Upon the foregoing reasons,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals